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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
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Washington, D.C. 20536

AUG 25 2003

File: LOS 214F 01401 Office: LOS ANGELES, CALIFORNIA

Date:

IN RE: Petitioner

Petition: Petition for Approval of School for Attendance by Nonimmigrant Students under Sections 101(a)(15)(F)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(F)(i)

ON BEHALF OF PETITIONER:

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Petition for Approval of School for Attendance by Nonimmigrant Students (Form I-17) was denied by the District Director, Los Angeles, California. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The Form I-17 reflects that the petitioner in this matter, [REDACTED] is a private school established in 1986. The school offers English language training. The school declares an enrollment of approximately 100 students per year, with 12 instructors. The petitioner seeks approval to enroll F-1 nonimmigrant students.

The district director automatically withdrew the petitioner's approval pursuant to 8 C.F.R. § 214.4(a)(2) after determining that the petitioner had failed to notify the Bureau of Citizenship and Immigration Services (BCIS) of a change in ownership. The record of proceeding consists of a petition with supporting documentation, the district director's decision, and a timely appeal.

The record reflects that the petitioner received original approval for attendance by F-1 students on May 13, 1993. The owner at that time was [REDACTED]. The district director determined that the petitioner changed ownership in 1998 without notifying the Bureau in accordance with the regulations.

On appeal, counsel for the petitioner contends that ownership did not change until 2001, when the sale of the petitioning school was final, and that notification of the change in ownership after this date was timely. Counsel states:

[W]hen Mr. [REDACTED] bought the business from Mrs. [REDACTED] agreed [sic] that the transfer of ownership was not final until the final payment was made. If Mr. [REDACTED] failed to make the payments the school will be transferred back to Mrs. [REDACTED]

We are not persuaded by counsel's argument. The security agreement submitted on appeal demonstrates that the security interest in the petitioning school was granted to [REDACTED] on January 22, 1998. In counsel's first sentence as quoted above, he claims that the transfer of ownership to Mr. [REDACTED] was not final until the final payment was received by Mrs. [REDACTED] and yet in the next sentence states in the event Mr. [REDACTED] fails to make any payment, "*the school will be transferred back to Mrs. [REDACTED]*" (Emphasis added). Clearly, as Mr. [REDACTED] made all payments due to Mrs. Chan, the ownership was never transferred back to Mrs. [REDACTED] at any time prior to the final payment. Therefore, Mr. [REDACTED] became the owner from the beginning of their agreement in January of 1998 and retained ownership until the present. This reading of the facts is further supported by the fact that Mrs. [REDACTED] filed the Form 966 "Corporate Dissolution" in October of 1998.

As stated in the district director's decision, 8 C.F.R. § 214.4(a)(2) stipulates:

If an approved school changes ownership, approval will be automatically withdrawn sixty days after the change of ownership unless the school files a new petition for school approval within sixty days of that change of

ownership.

We find that [REDACTED] became owner of the petitioning school in March 1998 and that notification of the change in ownership was not made within sixty days of that date in accordance with the regulation.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. §1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.